

AMENDMENTS TO THE DRAWINGS

The attached Replacement Sheet and Annotated Sheet include changes to Fig. 3. The Replacement Sheet, which includes Fig. 3, replaces the original sheet including Fig. 3.

Attachment: Replacement Sheet and Annotated Sheet

REMARKS

The present application includes claims 1-10. The Examiner objected to the drawings of the present application. Claim 1 was rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 3,422,929 to Oja et al. Claims 1, 5, 6, 9, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,806,111 to Heimbrock et al. Claims 1, 5, 6, 9, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 2,922,494 to Clark. Furthermore, the Examiner has stated that claims 2-4, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicants thank the Examiner for the notice of allowed subject matter.

The Applicants respectfully traverse the outstanding rejections for reasons set forth hereafter.

Objections

The Examiner objected to the drawings under 37 C.F.R. 1.83(a) for not showing every feature of the invention specified in the claims. Specifically, the Examiner objected to the drawings for not showing a mobile medical device. Figure 3 has been amended to include 1) a mobile medical device designated by element number 102, and 2) element number 100 for reference to the braking apparatus. Additionally, the specification at page 5 has been amended to include reference to element 102 in Figure 3.

No new matter has been added—the drawing for Figure 3 and the specification have merely been amended to identify subject matter, *i.e.*, a mobile medical device, that was already described in the written description (*see, e.g.*, Abstract, Background of the Invention; Summary

of the Invention; and page 4, lines 19-20) and the original claims. The Applicant respectfully submits that the amended drawing satisfies 37 C.F.R. 1.83(a).

Additionally, the Applicants thank the Examiner for the suggestions regarding the preferred arrangement of the specification of a patent application and will endeavor in the future to follow these suggestions.

35 U.S.C. § 102(b) Rejections

Claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Oja. The Applicants respectfully traverse this rejection. Oja is related to a brake mechanism for a wheeled mobile assembly having at least one footed leg element. The brake mechanism has a horizontally oriented linear guide member such as a rod, a slidable bracket carried on that horizontal guide member, a link lever connection between that slidable bracket and a footed leg element of the wheeled mobile assembly, and a spring or other means to bias the footed leg element in retracted condition for wheeled movement of the mobile assembly with the slidable bracket in a position most remote from the footed leg element. Braking is accomplished by moving the slidable bracket toward the footed leg element and thereby causing the footed leg element to extend into braking contact with the floor. Oja at Abstract.

The Applicant respectfully submits that Oja fails to teach all the limitations of claim 1 and therefore does not anticipate claim 1. Oja does not teach, nor suggest, a “steering mechanism” as recited in claim 1. Oja discloses a slidable bracket 23 connected to an arm 29 that is connected to the pedal 37. *See* Oja at Fig. 2. The slidable bracket 23 does not steer the arm 29 because the bracket 23 moves with the arm and along the same path of the arm 29. Instead, the arm 29 moves, and directs the movement, of the bracket 29. Thus, the bracket 23

does not serve as a steering mechanism. Therefore, the Applicants respectfully submit that Oja does not teach all the limitations of claim 1 and thus does not anticipate claim 1.

Claims 1, 5, 6, 9, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Heimbrock. The Applicants respectfully traverse these rejections. Heimbrock is related to a stretcher including an elongated frame having an upper frame and a lower frame. A patient-support deck is supported by the upper frame and includes a patient-support surface. Casters are mounted to the lower frame and a pair of push bars are mounted to the upper frame. The stretcher also includes a pair of latches coupled to the upper frame to pivot about respective axes between lock positions engaging the push bars to lock the push bars in the push positions and release positions allowing the push bars to move between respective push positions and down-out-of-the-way positions. Heimbrock at Abstract.

The Applicant respectfully submits that Heimbrock fails to teach all the limitations of claim 1 and therefore does not anticipate claim 1. Heimbrock does not teach, nor suggest a “steering mechanism with a linkage member attached to said pedal” as recited in claim 1. Heimbrock discloses links 172 and 174 which are not attached to the pedal 56. Furthermore, the links 172 and 174 do not steer any linkage members because the links 172 and 174 are moved by the shaft 60 that is rotated by the pedal 56 and do not steer, or define a path of movement for, the shaft 60. *See* Heimbrock at 15:43-61. Thus, the links 172 and 174 do not serve as linkage members or as a steering mechanism. Therefore, the Applicants respectfully submit that Heimbrock does not teach all the limitations of claim 1 and thus does not anticipate claim 1.

With respect to claim 5, Heimbrock fails to teach or suggest the locking mechanism being “a plunger assembly having a slotted piston for receiving a pin for engaging a spring located within the periphery of said plunger assembly.” The Office Action asserts, without any

explanation, that Heimbrock discloses these limitations in a spring 160 and a cross bracket 194. However, the Applicants respectfully submit that these features disclosed in Heimbrock simply are not a plunger assembly. Furthermore, these features certainly do not include a slotted piston for receiving a pin for engaging a spring located within the periphery of the plunger assembly. In fact, the words “plunger” and “piston” do not even appear in the Heimbrock reference. Therefore, the Applicants respectfully submit that Heimbrock does not teach all the limitations of claim 5 and thus does not anticipate claim 5.

The Applicant respectfully submits that Heimbrock fails to teach all the limitations of claim 6 and therefore does not anticipate claim 6. Heimbrock does not teach nor suggest “first linkage members steering said pedal such that said pedal comes to rest in either a locked or unlocked position” as recited in claim 6. Again, Heimbrock discloses links 172 and 174 that do not steer the pedal 56. Rather, the links 172 and 174 are moved by, and move *with*, the shaft 60 that is rotated by the pedal 56 and do not steer, or define a path of movement for, the shaft 60 or the pedal 56. *See* Heimbrock at 15:43-61. If anything, the pedal 56 and shaft 60 steer the movement of the links 172 and 174. Thus, the links 172 and 174 do not steer the pedal such that the pedal comes to rest in either a locked or unlocked position. Therefore, the Applicants respectfully submit that Heimbrock does not teach all the limitations of claim 6 and thus does not anticipate claim 6.

With respect to claims 9 and 10, as discussed above, Heimbrock simply does not teach, nor suggest, that the locking mechanism includes a plunger assembly, let alone a plunger assembly having a slotted piston for receiving a pin for engaging a spring located within the periphery of the plunger assembly. Therefore, the Applicants respectfully submit that

Heimbrock does not teach all the limitations of claims 9 and 10 and thus does not anticipate claims 9 and 10.

35 U.S.C. § 103(a) Rejections

Claims 1, 5, 6, 9, and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Clark. The Applicants respectfully traverse this rejection. Clark is related to a holding device for wheeled vehicles of the type commonly used to support machine tools and the like so that the tools are portable. Clark 1:15-17. Specifically, the holding device is for use with a truck that supports large tools used in building aircraft. Clark 2:17-25.

The Applicants respectfully submit that claims 1, 5, 6, 9, and 10 are not obvious over Clark. The Office Action acknowledges that Clark fails to specifically teach a brake apparatus used with a mobile medical device. However, the Office Action asserts that Clark teaches the use of a brake apparatus on wheeled vehicles, which “could easily represent a patient table . . . [a]s such it would have been obvious to one of ordinary skill in the art to have utilized the brake apparatus of Clark, Jr. on a mobile medical device, since the device is clearly capable for use on any wheeled vehicle.” July 17, 2006 Office Action, at pp. 6 and 7.

Because of the manner in which these statements in the Office Action are worded, it could be interpreted as the Examiner asserting Official Notice of the subject of the statements. If the Examiner is asserting Official Notice that the subject of the statements are common knowledge, the Applicants respectfully traverse the Examiner’s assertions as further set forth below. Alternatively, if the Examiner’s assertions are based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the Examiner’s assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should only be asserted when the subjects asserted to be common knowledge are “capable of instant and unquestionable demonstration as being well-known.” That is, the subjects asserted must be of “notorious character” under MPEP § 2144.03(A).

However, the Applicants respectfully submit that the subject matter of the Examiner’s assertion of Official Notice is not well-known in the art as evidenced by the searched and cited prior art. The Applicants respectfully submit that the Examiner has performed “a thorough search of the prior art,” as part of the Examiner’s obligation in examining the present application under MPEP § 904.02.

Additionally, the Applicants respectfully submit that the Examiner’s searched and cited references found during the Examiner’s search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner’s search of the relevant prior art, none of the prior art taught or suggested the subject matter of the Examiner’s assertion of Official Notice. That is, the Examiner’s thorough and detailed search of the prior art has failed to yield any mention of the teachings that the Examiner is asserting as widely known in the art. The Applicants respectfully submit that if the subject matter of the Examiner’s assertion of Official Notice had been of “notorious character” and “capable of instant and unquestionable demonstration as being well-known” under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner’s search of the prior art. Consequently, the Applicants respectfully submit that the prior art does not teach the subject matter of the Examiner’s assertion of Official Notice and respectfully traverse the Examiner’s assertion of Official Notice. Accordingly the Applicants respectfully submit that claims 1, 5, 6, 9, and 10 are in condition for allowance.

Additionally, Clark fails to teach or suggest all the limitations of claims 5 and 10. Clark does not teach, nor suggest, a “plunger assembly having a slotted piston for receiving a pin for engaging a spring located within the periphery of said plunger assembly” as recited in claims 5 and 10. While Clark discloses a pin 45 and springs 36 and 55, neither of the springs 36 and 55 engage the pin 45 in any way. Therefore, claims 5 and 10 are not obvious over Clark, and the Applicants respectfully submit that claims 5 and 10 are in condition for allowance.

For at least these reasons, the Applicants respectfully submit that claims 1-10 are patentable.

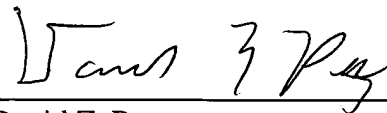
Conclusion

The Applicant respectfully submits that claims 1-10 are in condition for allowance.

If the Examiner has any questions or if the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,



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Figure 3

